

Clark entered a plea of guilty to possession of with intent to distribute more than 50 grams of crack cocaine and was sentenced to the mandatory minimum sentence of 10 years. Filing No. [51](#), Judgment. This court lacks authority to sentence below the mandatory minimum sentence. See [United States v. Chacon](#), 330 F.3d 1065, 1066 (8th Cir.2003) (stating that the only authority for court to depart below statutory minimum sentence is in [18 U.S.C. § 3553\(e\)](#) and (f), which apply only when government makes motion for substantial assistance or when defendant qualifies under safety-valve provision); [United States v. Gregg](#), 451 F.3d 930, 937 (8th Cir. 2006) (stating that [United States v. Booker](#), 543 U.S. 220 (2005), “does not relate to statutorily-imposed sentences”). Further, the record shows that Clark was afforded the benefit of the crack/powder Guidelines amendment with respect to the calculation of his advisory Guidelines sentence. However,

the Guidelines amendment does not affect Clark's sentence under the statute. The legislation on which Clark apparently relies in support of his position has not yet been enacted into law. Until Congress acts to reduce the disparity between crack and powder cocaine and reduce the statutory mandatory minimum sentences, this court is without authority to afford relief. In light of this disposition, the defendant's motion for appointment of counsel is moot. Accordingly,

IT IS ORDERED that the defendant's motion for a reduction in his sentence (Filing No. [56](#)) is denied.

DATED this 5<sup>th</sup> day of May, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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